

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WALTER PORRECA,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	_____ CV 2016
	:	
GRANITE CONSTRUCTION	:	
NORTHEAST INC. and	:	
TAPPAN ZEE CONSTRUCTORS, LLC :	:	
	:	
Defendants.	:	

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COMPLAINT

Plaintiff, Walter Porreca, by his undersigned counsel, Christopher J. Finney, Esquire and Joseph R. Rydzewski, Esquire of Spall, Rydzewski, Anderson, Lalley & Tunis, PC, hereby complains of the above named Defendants as follows:

PARTIES

1. Plaintiff, Walter Porreca is a competent adult individual residing at 121 Game Trial Road, Greentown, PA 18426.
2. Defendant, Granite Construction Northeast, Inc. is a Delaware corporation with a place of business at 120 White Plains Road, Tarrytown, NY, 10591, while doing business in the Commonwealth of Pennsylvania.
3. Defendant, Tappan Zee Constructors, Inc., is a New York limited liability company with its principal place of business at 555 White Plains Rd, Tarrytown, NY 10591, while doing business in the Commonwealth of Pennsylvania.

JURISDICTION

4. This Court has diversity jurisdiction over the claims set forth herein and the parties hereto pursuant to 28 U.S.C. Section 1332 in that Plaintiff and Defendants are citizens of different states and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

GENERAL ALLEGATIONS

5. On November 14, 2014, Plaintiff was traveling east in his 2011 Ford Pickup truck on New York State Route 17, Monroe, New York.
6. As Plaintiff traveled east, Ferdinand A. Ritz, driving a 2010 Peterbilt Crane Truck in front of Plaintiff, owned by and/or controlled, loaded or operated on behalf of the Defendants.
7. At or about 9:15 am, as Plaintiff drove through Monroe, NY, a pallet of steel fell off the 2010 Peterbilt Crane Truck and struck Plaintiff's vehicle.
8. When the pallet struck Plaintiff's vehicle, Plaintiff's truck went up in the air, landing on all four tires, then came to a stop against the guard rail.
9. Shortly after the accident, Officer Andrew Bukovinsky appeared at the scene of the accident and wrote a Police Accident Report. A copy of the Police Accident Report (hereinafter referred to as the "Report") is attached hereto and incorporated herein as Exhibit "A."
10. It is averred that the steel fell off New York Registration 87687JZ—the Peterbilt Crane Truck—which was operated, owned, loaded or controlled by Defendants.

11. As a result of the accident, Plaintiff experienced severe pain on the left side of his buttocks and severe low back pain. He further experienced severe aggravation of symptoms previously alleviated from a laminectomy that was performed in March of 2013.

COUNT I—NEGLIGENCE
(As to Tappan Zee Constructors, LLC)

12. The preceding Paragraphs are incorporated herein by reference as though here set forth at length.

13. On November 14, 2014, and at all times material, Defendant, Tappan Zee Constructors, LLC, was in possession, custody and/or control of the load and the 2010 Peterbilt Crane Truck.

14. At all times material hereto, Defendant, Tappan Zee Constructors, LLC, owed a duty to exercise reasonable care in the ownership, loading, maintenance, operation and/or use of the 2010 Peterbilt Crane Truck for the benefit of other individuals on public roadways.

15. At all times material hereto, Defendant, Tappan Zee Constructors, LLC, breached its duty of care to other individuals on the above described public roadways, and in particular to Plaintiff, as it was negligent and careless in the ownership, loading, operation, maintenance and/or use of the 2010 Peterbilt Crane Truck.

16. Defendant, Tappan Zee Constructors, LLC, was negligent, through the conduct of its employee, in its:

- a. Failure to operate the 2010 Peterbilt Crane Truck in a safe and reasonable manner;

- b. Failure to secure its cargo in a safe and reasonable manner;
 - c. Failure to keep an adequate and proper lookout for cargo that became unsecure;
 - d. Failure to avoid dropping its cargo and avoid the collision with Plaintiff's vehicle;
 - e. Failure to avoid overloading the trailer;
 - f. Failure to have competent employees, drivers, operators or inspectors concerning the load and the truck;
 - g. Failure to have proper load protection or proper loading; and
 - h. Driving too fast for conditions.
17. As a direct, foreseeable, and proximate result of Defendant's, Tappan Zee Constructors, LLC, negligence, Plaintiff has suffered severe, permanent injury to his left buttocks, low back and re-aggravated symptoms.
18. As a further direct and proximate result of Defendant's, Tappan Zee Constructors, LLC, negligence, Plaintiff has incurred pain and suffering, loss of life's pleasure, medical expenses for his care and treatment in an effort to alleviate and cure his injuries, recover lost income and incurred lost earning capacity, and will continue to incur additional losses in the future.
19. These losses are direct and proximate result of Defendant's, Tappan Zee Constructors, LLC, negligence.

WHEREFORE, Plaintiff demands judgment for damages against Defendant, Tappan Zee Constructors, LLC, for monetary relief plus interest and costs.

COUNT II—NEGLIGENCE
(As to Granite Construction Northeast, Inc.)

20. The preceding Paragraphs are incorporated herein by reference as though here set forth at length.
21. On November 14, 2014, and at all times material, Defendant, Granite Construction Northeast, Inc., was in possession, custody, loading and/or control of its load and the 2010 Peterbilt Crane Truck.
22. At all times material hereto, Defendant, Granite Construction Northeast, Inc., owed a duty to exercise reasonable care in the ownership, loading, maintenance, operation and/or use of the load and the 2010 Peterbilt Crane Truck for the benefit of other individuals on public roadways.
23. At all times material hereto, Defendant, Granite Construction Northeast, Inc., breached its duty of care to other individuals on the above described public roadways, and in particular to Plaintiff, as it was negligent and careless in the ownership, loading, operation, maintenance and/or use of the load and the 2010 Peterbilt Crane Truck.
24. Defendant, Granite Construction Northeast, Inc., was negligent, through the conduct of its employee, in its:
- a. Failure to operate the 2010 Peterbilt Crane Truck in a safe and reasonable manner;
 - b. Failure to secure its cargo in a safe and reasonable manner;
 - c. Failure to keep an adequate and proper lookout for cargo that became unsecure;

- d. Failure to avoid dropping its cargo and avoid the collision with Plaintiff's vehicle;
 - e. Failure to avoid overloading the trailer;
 - f. Failure to have competent employees, drivers, operators, or inspectors concerning the load and the truck;
 - g. Failure to have proper load protection or proper loading; and,
 - h. Driving too fast for conditions.
25. As a direct, foreseeable, and proximate result of Defendant's, Granite Construction Northeast, Inc., negligence, Plaintiff has suffered serious injury to his left buttocks, low back and aggravated symptoms from a previous laminectomy.
26. As a further direct and proximate result of Defendants negligence, Plaintiff has incurred pain and suffering, loss of life's pleasure, medical expenses for his care and treatment in an effort to alleviate and cure his injuries, and recover lost income, loss of earning capacity, and will continue to incur additional expenses in the future.
27. These losses are direct and proximate result of Defendant's, Granite Construction Northeast, Inc., negligence.

WHEREFORE, Plaintiff demands judgment for damages against Defendant, Granite Construction Northeast, Inc., for monetary relief, plus interest and costs.

DEMAND FOR JURY TRIAL

Plaintiff demand a trial by jury of all issues so triable.

Respectfully submitted,

SPALL, RYDZEWSKI, ANDERSON, LALLEY & TUNIS, P.C.

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